

REMARKS

Applicants gratefully acknowledge that the Examiner has rejoined Claims 2 and 8 with the Claims of elected invention Group I, according to the definitions of his Restriction Requirement of May 18, 2009, in his consideration of this Application.

Claim 1 has been amended by deletion of three options for X, additions of definitions for acyl, heteroaryl, cycloalkyl and heterocyclic residue, as supported by page 2, lines 10 and 11, 13-15, 8 and 9, and 16-18, and with minor grammatical and/or stylistic changes for clarity.

Claims 2-4 have been amended with minor stylistic changes for consistency and/or clarity.

Claims 7, 9-11 and 14-18 have been withdrawn by the Examiner as a result of Applicants' election in response to the Examiner's Restriction Requirement mailed May 18, 2009.

Claims 8, 12 and 13 have been canceled in the interest of an expedited prosecution of the Application.

Applicants continue to reserve the right to deal in the future with all material in the Specification and Claims not currently under review for allowance as a Patent.

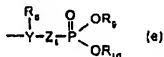
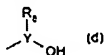
Claims 1-4 are currently pending in the instant Application, for which a favorable reconsideration is respectfully requested of the Examiner, as is reconsideration and rejoinder of Claims 7, 15 and 18, drawn to compositions comprising compounds of formula I, and Claims 9-11, 14 and 16, drawn to methods of treatment with the compounds of their invention, upon allowance of Claims 1-4.

Claims 1-4, 8, 12 and 13 have been objected to as containing non-elected subject matter.

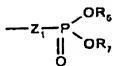
Applicants' amendments and cancellations, described above, are believed to satisfy and overcome this objection, which is respectfully requested reconsidered and withdrawn.

Claims 1-4, 8, 12 and 13 have been provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as unpatentable over Claims 1-3, 5, 11 and 13-17 of co-pending Application 11/568,645 (US'645) and Claims 1-9 of co-pending Application 10/554,557 (US'557).

As the priority date of the pending US'645 Application is later than that of the instant Application, Applicants respectfully suggest that a terminal disclaimer may not be appropriate for this Application. In addition, in US'645, R₃ is defined as a residue of formula (d) or formula (e):



, wherein Y is CH or CF, R₈ is C₁₋₆-alkyl, C₂₋₆-alkenyl, C₂₋₆-alkynyl or phenyl; Z₁ is a direct bond, CH₂, CHF, CF₂ or O; and each of R₉ and R₁₀, independently, is H or C₁₋₄-alkyl optionally substituted by 1, 2 or 3 halogen atoms, and in US'557, R₃ is defined as Z-X₂, wherein Z is CH₂, CHF or CF₂, and X₂ is OH or a residue of formula (a):



(a), wherein Z₁ is a direct bond, CH₂, CHF, CF₂ or O, and

each of R₆ and R₇, independently is H, C₁₋₄-alkyl optionally substituted by 1, 2 or 3 halogen atoms or benzyl, each of which is totally different from the carbonyl (COOH) group that is the whole or part of R₃ in the instant invention, indicating that there is no overlap in the definitions of either reference with that of the instant invention, and neither reference anywhere suggests that compounds with a COOH group, as in the inventive compounds of the instant Application would be active. Thus, Applicants respectfully suggest that a terminal disclaimer with respect to either the '645 or the '557 Application is not justified and respectfully request that the Examiner reconsider and withdraw his provisional rejection.

SUMMARY

Applicants respectfully believe that the Application is now in condition for

allowance and earnestly solicit such favorable action by the Examiner. If any remaining matters need to be resolved, however, the resolution of which would expedite prosecution, and which are amenable to resolution during a telephone interview between the Examiner and Applicants' Attorney, Applicants respectfully request such a telephone interview (the undersigned attorney may be contacted at the telephone number set forth below) with the Examiner prior to any adverse action being issued by the Office, in order to facilitate allowance of the pending Claims.

Respectfully submitted,

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